

Last page of docket  
SHDKT

PROCEEDINGS AND ORDERS

DATE: [05/07/91]

CASE NBR: [90107225] EOH

STATUS: [PENDING CONFERENCE ]

SHORT TITLE: [Demos, In Re John R.]

VERSUS [

] DATE DOCKETED: [022591]

PAGE: [01]

\*\*\*\*\*DATE\*\*\*\*NOTE\*\*\*\*\*PROCEEDINGS & ORDERS\*\*\*\*\*

- 1 Feb 25 1991 R Petition for writ of habeas corpus and motion for leave to proceed in forma pauperis filed.
- 6 Feb 25 1991 D Motion of petitioner for leave to proceed in forma pauperis filed.
- 3 Apr 4 1991 DISTRIBUTED. April 19, 1991
- 5 Apr 22 1991 REDISTRIBUTED. April 26, 1991
- 8 Apr 29 1991 Motion of petitioner for leave to proceed in forma pauperis DENIED. Petitioner is allowed until May 20, 1991, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33 of the Rules of this Court. Dissenting opinion by Justice Marshall with whom Justice Blackmun and Justice Stevens join.

\*\*\* Related Case - Use VIDE,LS with SE \*\*\*

90-7225

IN THE

SUPREME COURT OF THE UNITED STATES

IN RE: PETITIONER,

JOHN ROBERT DEMOS JR;

RECEIVED

FEB 25 1991

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ORIGINAL

"MOTION FOR LEAVE TO PROCEED IN FORMA-PAUPERIS"

PETITIONER, JOHN ROBERT DEMOS JR, PURSUANT TO 28 U.S.C. 1915; & 28 U.S.C. 1361; MOVES THIS COURT FOR AN ORDER PERMITTING HIM TO PROCEED IN FORMA-PAUPERIS WITHOUT PRE-PAYMENT OF FEE'S AND COSTS OR SECURITY....

PETITIONER HAS ATTACHED A DECLARATION & AFFIDAVIT IN SUPPORT OF THIS MOTION HERETO.....

RESPECTFULLY SUBMITTED,

/s/

*John X. Demos Jr*

JOHN ROBERT DEMOS JR  
WASHINGTON STATE REFORMATORY  
P.O. BOX 777  
MONROE, WASHINGTON.

(98272)

IN THE  
SUPREME COURT OF THE UNITED STATES

IN RE: PETITIONER,

JOHN ROBERT DEMOS JR:

"AFFADAVIT IN SUPPORT OF MOTION FOR LEAVE TO PROCEED IN FORMA-PAUPERIS"

I, JOHN ROBERT DEMOS JR, AM THE PETITIONER IN THE ABOVE ENTITLED CASE, IN SUPPORT OF MY MOTION TO PROCEED WITHOUT BEING REQUIRED TO PRE-PAY FEE'S, OR COSTS, OR GIVE SECURITY THEREFOR, I STATE THAT BECAUSE OF MY POVERTY I AM UNABLE TO PAY THE COSTS OF SAID PROCEEDINGS OR TO GIVE SECURITY THEREFOR, AND THAT I BELIEVE I AM ENTITLED TO REDRESS. I DECLARE THAT THE RESPONSES WHICH I HAVE MADE BELOW ARE TRUE....

1. ARE YOU PRESENTLY EMPLOYED? NO. LAST EMPLOYED ON 1/7/88; I GROSSED \$375.00
  2. HAVE YOU RECIEVED WITHIN THE PAST (12) MONTHS ANY INCOME FROM A BUSINESS, PROFESSION, RENT PAYMENTS, SELF-EMPLOYMENT, GIFTS, INHERITANCE, PENSIONS, ANNUNITIES, OR DIVIDENDS? NO.
  3. DO YOU OWN ANY CASH, REAL ESTATE, STOCKS, BONDS, NOTES, AUTOMOBILES, OR OTHER VALUABLE PROPERTY (EXCLUDING ORDINARY HOUSEHOLD FURNISHINGS & CLOTHING)? NO.
  4. DO YOU OWN ANYCASH, OR DO YOU HAVE MONEY IN A CHECKING, SAVINGS ACCOUNT? NO.
  5. LIST THE PERSONS WHO ARE DEPENDENT UPON YOU FOR SUPPORT; STATE YOUR RELATIONSHIP TO THOSE PERSONS; AND INDICATE HOW MUCH YOU CONTRIBUTE TOWARDS THEIR SUPPORT.
- I HAVE NO DEPENDENTS, MY BEING IN PRISON STRIPS ME OF ALL DEBTS....

I UNDERSTAND THAT A FALSE STATEMENT OR ANSWER TO ANY QUESTION IN THIS DECLARATION WILL SUBJECT ME TO PENALTIES FOR PERJURY....



DATED: THIS 19, DAY OF Feb, 1991.

151 *John Demos*  
JOHN ROBERT DEMOS JR

IN THE  
SUPREME COURT OF THE UNITED STATES

NO. 90-7225

IN RE: PETITIONER;

JOHN ROBERT DEMOS JR;

PETITION FOR WRIT OF HABEAS CORPUS AD-SUBJICIENDUM TO THE 9th  
CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF HABEAS CORPUS

JOHN ROBERT DEMOS JR  
WASHINGTON STATE REFORMATORY  
1 PARK PLACE  
P.O. BOX 777  
MONROE, WASHINGTON.

(98272)

TABLE OF CONTENTS

QUESTIONS PRESENTED.....

PARTIES.....

TABLE OF AUTHORITIES.....

PRAYER OF THE PETITIONER .....

OPINION BELOW.....

JURISDICTION OF THE COURT.....

CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED.....

STATEMENT OF THE CASE.....

ARGUMENT IN SUPPORT OF GRANTING "HABEAS CORPUS".....

CONCLUSION .....

APPENDIX.....

EXHIBITS .....

IN THE  
SUPREME COURT OF THE UNITED STATES

NO. \_\_\_\_\_

\_\_\_\_\_, FEBRUARY \_\_\_\_\_, TERM 1991

-----  
IN RE: PETITIONER,

JOHN ROBERT DEMOS JR;

-----  
PETITION FOR WRIT OF HABEAS CORPUS AD-SUBJICIENDUM TO  
THE NINTH CIRCUIT

-----  
PETITION FOR WRIT OF HABEAS CORPUS

-----  
JOHN ROBERT DEMOS JR

P.O. BOX 777

MONROE, WASHINGTON.

(98272)

TABLE OF AUTHORITIES

MAXWELL VS. DOW, 176 U.S. 581;  
28 U.S.C. 453, 459;  
18 U.S.C. 1505, 1509;  
28 U.S.C. 2412; U.S. VS. WHEELER, 795 F. 2D 839;  
HOT OIL CASES----JANUARY 7th, 1935;  
OHIO OIL COMPANY VS. CONWAY, 279 U.S. 813;  
KRAUSE VS. SCHMIDT, 341 F. SUPP. 1001;  
BROWN VS. BRIENEN, 722 F. 2D 360;  
GILLESPIE VS. CIVELETTI, 629 F. 2D 637;  
WALKER VS. U.S. 116 F. 2D 458;  
OKLAHOMA CITY OKLAHOMA VS. DOLESE, 48 F. 2D 734;  
WEST VS. AMERICAN TELEPHONE & TELEGRAPH, 85 L. ED 139;  
BERNARD VS. GULF OIL CO, 619 F. 2D 459; \*\*\*\*\*  
SHELDON VS. SILL, 12 L. ED 1147;  
BEERS VS. HAUGHTON, 9 L. ED 145;  
ROSADO VS. WYMAN, 304 F. SUPP. 1356;  
MEAD VS. PARKER, 464 F. 2D 1108;  
U.S. VS. RUMELY, 345 U.S. 1;  
U.S. VS. HARRIS, 347 U.S. 612;  
\*\*\*TIME INC VS. FIRESTONE, 47 L. ED 2D 154;  
BALTZER VS. U.S. 248 U.S. 593;  
MANDEL VS. DOE, 888 F. 2D 783;  
U.S. VS. DEBROW, 346 U.S. 374;  
BERGER VS. BATTAGLIA, 779 F. 2D 992;

TABLE OF AUTHORITIES/PART. 11

SANDERS VS. U.S. 373 U.S. 1;  
U.S. VS. BENTON, 637 F. 2D 1052;  
\*\*\*SANDOVAL VS. BROWN, 432 F. SUPP. 1028;  
\*\*\*KAYLOR VS. FIELDS, 661 F. 2D 1177;  
8888\*\* NEW YORK VS. FERBER, 73 L. ED 2D 1113;  
LOPEZ VS. ARROWHEAD RANCHES, 523 F. 2D 924;  
BUCKLEY VS. VALEO, 46 L. ED 2D 659;  
CRUZ VS. HAUCK, 404 U.S. 64;  
SMITH VS. GRIMM, 534 F. 2D 1346;  
UNITED CORP VS. REED, WIBLE, & BROWN, 626 F. SUPP. 1255;  
CREQUE VS. LUIS, 803 F. 2D 92;  
\*\*\*U.S. VS. MARTINEZ-FUERTE, 49 L. ED 2D 1116;  
RE BAIN, 30 L. ED 849;  
U.S. VS. CRUSO, 536 F. 2D 21;  
\*\*\*HUNTER VS. ERICKSON, 21 L. ED 2D 616;  
EASTLAKE VS. FOREST CITY ENTERPRISES, INC., 49 L. ED 2D 132;  
BROOKS VS. GREAT LAKES DREDGE, 754 F. 2D 536;  
CURRY VS. McCANLESS, 83 L. ED 1339;  
BRUNO'S INC VS. U.S. 624 F. 2D 592;  
\*\*\*RANKIN VS. HOWARD, 633 F. 2D 844;  
HANDI CADDY INC VS. AMERICAN HOME PRODUCTS INC, 557 F. 2D 136;  
McCALLISTER VS. KUHN, 96 U.S. 87; \*\*\*\*\*  
REID VS. COVERT, 1 L. ED 2D 1148; MARBURY VS. MADISON, 1 CRANCH 137;  
\*\*\*HOLDER VS. AULTMAN, 42 L. ED 669;  
GREEN VS. WYRICK, 428 F. SUPP. 728;  
MATTER OF SPENCER, 57 L. ED 1010;  
AMERICAN SUGAR REFINING CO VS. NEW ORLEANS, 45 L. ED 859;



TABLE OF AUTHORITIES/PART. 111

MILLS VS. GREEN, 40 L. ED 293;  
 U.S. VS. WHITNEY, 602 F. SUPP. 722;  
 FAY VS. CROZER, 54 L. ED 837; \*\*\*\*\*  
 SALINGER VS. U.S. 71 L. ED 398; \*\*\*\*  
 BATTIE VS. ESTELLE, 655 F. 2D 692;  
 HAINES VS. KERNER, 404 U.S. 519;  
 U.S. VS. POTAMITIS, 739 F. 2D 784;  
 STONE VS. U.S. 42 L. ED 127;  
 WEYGANDT VS. LOOK, 718 F. 2D;  
 MARYLAND VS. BALTIMORE RADIO SHOW, 388 U.S. 912;  
 URBAIN VS. KNAPP BROTHERS, 217 F. 2D 810; \*\*\*\*\*  
 THOMPSON VS. CITY OF LOUISVILLE, 362 U.S. 199;  
 CORSTVET VS. BOGER, 756 F. 2D 223;  
 \*\*\*U.S. VS. CITY OF PITTSBURGH, 467 F. SUPP. 1080;  
 MASON VS. CICCONE, 531 F. 2D 867;  
 ESCAMILLA VS. CITY OF SANTA ANA, 606 F. SUPP. 928;  
 FLETCHER VS. PECK, 6 CRANCH 87;  
 GRAVES VS. O'KEEFE, 306 U.S. 466;  
 U.S. VS. GREGORY, 730 F. 2D 692;  
 \*\*\*WILLIAMS VS. EDWARDS, 547 F. 2D 1206;  
 62 ILLINOIS, 2D 107; (67 ILLINOIS, 2D 107);  
 EX PARTE MILLIGAN, 4 WALLACE 2;  
 ZANNINO VS. ARNALD, 531 F. 2D 687;  
 \*\*\*U.S. VS. GREATHOUSE, 41 L. ED 1130;  
 TRIMBLE VS. GORDON, 430 U.S. 762;  
 ROSS PACKING CO VS. U.S. 42 F. SUPP. 932;  
 U.S. VS. BANKER'S TRUST CO, 294 U.S. 240;

TABLE OF AUTHORITIES/PART. 1V.

WILSON VS. GIRARD, 354 U.S. 524;  
 SMITH VS. CITY OF PITTSBURGH, 764 F. 2D 183;  
 28 U.S.C. 2403 (B), & 451;  
 SUN OIL COMPANY VS. WORTMAN, 108 S. CT. 2117;  
 GENERAL MOTORS VS. U.S. 76 L. ED 971;  
 POSADAS VS. NATIONAL CITY BANK, 80 L. ED 351;  
 CHEVRON OIL CO VS. HUDSON, 404 U.S. 97; \*\*\*\*\*  
 GOMEZ VS. TOLEDO, 446 U.S. 635;  
 \*\*\*AVLONTIS VS. SEATTLE DISTRICT COURT, 97 WN. 2D 131;  
 BODDIE VS. CONNECTICUT, 28 L. ED 2D 113;  
 CARBONELL VS. LOUISIANA DEPT. OF HEALTH & HUMAN SERVICES, 772 F. 2D 1851;  
 \*\*\*DOWDELL VS. CITY OF APOPKA, 698 F. 2D 1181;  
 RAST VS. VAN DE MAN, 60 L. ED 679;  
 ST. LOUIS VS. WIGGINS FERRY CO, 20 L. ED 192;  
 GIBSON VS. FLORIDA, 9 L. ED 2D 929;  
 HUDSON VS. PALMER, 468 U.S. 517;  
 SHAW VS. DELTA AIRLINES, 77 L. ED 2D 490;  
 LOVING VS. VIRGINIA, 388 U.S. 1;  
 TWINING VS. NEW JERSEY, 211 U.S. 78;  
 BARREN VS. BALTIMORE, 7 PETERS 243;  
 M'ELMOYLE VS. COHEN, 10 L. ED 177;  
 EAGLES VS. U.S. 91 L. ED 308;  
 HARLAN VS. MCGOURIN, 54 L. ED 1101;  
 COMMISSIONER VS. BROWN, 14 L. ED 2D 75;  
 NEW YORK TIMES VS. SULLIVAN, 11 L. ED 2D 686;  
 U.S. VS. KAHRIGER, 97 L. ED 754;  
 U.S. VS. MAZE, 38 L. ED 2D 603;  
 WICKARD VS. FILBURN, 87 L. ED 122;  
 MEMBERS OF CITY COUNCIL VS. TAX PAYERS VS FOR VINCENT, 104 S. CT. 2118;

TABLE OF AUTHORITIES/PART. V.

U.S. VS. HOPPER, 440 F. SUPP. 1208;  
HECKLER VS. MATTHEWS, 104 S. CT. 1387;  
THE PEDRO, 44 L. ED 195;  
U.S. VS. CARSON, 793 F. 2D 1141; \*\*\*\*\*  
FIELD VS. CLARK, 143 U.S. 649;  
\*\*\*U.S. VS. JONES, 48 L. ED 776;  
\*\*\*~~FLORASYNTH~~ #750# FLORASYNTH VS. PICKHOLZ, 750 F. 2D 171;  
\*\*\*ROWE VS. LOCKHART, 736 F. 2D 457;  
\*\*\*SMITH VS. BENNETT, 365 U.S. 708;  
EX PARTE WILSON, 29 L. ED 89;  
WEEKS VS. U.S. 232 U.S. 383;  
FARETTA VS. CALIFORNIA, 422 U.S. 806;  
ROBERTS VS. CONTINENTAL INS, CO., 770 F. 2D 853;  
\*\*\*U.S. VS. AMERICAN BREWING CO, 1 F. 2D 1001;  
U.S. VS. CALLANAN, 173 F. SUPP. 98;  
DAVENPORT VS. STATE, 543 P. 2D 1204;  
\*\*\*CHESSMAN VS. TEETS, 1 L. ED 2D 1253;  
U.S. VS. RYAN, 455 F. 2D 728;

NO. \_\_\_\_\_

-----  
IN THE  
SUPREME COURT OF THE UNITED STATES  
-----

FEBRUARY TERM, 1991  
-----

IN RE: PETITIONER,  
JOHN ROBERT DEMOS JR;  
-----

PETITION FOR WRIT OF HABEAS CORPUS TO THE  
9th CIRCUIT COURT OF APPEALS, ~~#AND#THE#STATE~~  
~~SUPREME#COURT#~~  
-----

(1) PRAYER OF PETITIONER

THAT THE UNITED STATES SUPREME COURT INTERVENE IN THIS MATTER, CONSISTENT WITH DUE  
PROCESS, EQUAL PROTECTION, AND THE PUBLIC INTREST.  
AS A "CONFLICT OF LAW IS BEFORE THE COURT", I PRAY THAT THIS MATTER BE RESOLVED SPEEDILY,  
BECAUSE THE 9th CIRCUIT HAS ACTED "IMPROPERLY"....  
THE U.S. CONSTITUTION IS MY "BIBLE" WITH REGARDS TO THE ISSUES THAT I BRING BEFORE THE  
UNITED STATES SUPREME COURT....

(11). OPINION BELOW

THE "ORDER" AND OPINION OF THE UNITED STATES COURT OF APPEALS WAS ENTERED ON FEBRUARY 7th, 1991, BY 9th CIRCUIT JUDGES, BROWNING, PREGERSON, AND NOONAN; THE ORDER APPEARS IN THE "APPENDIX" SECTION OF THIS MATTER (SEE THE ENCLOSED WRIT OF CERTIORARI)

THE "ORDER" WILL BE PUBLISHED IN THE 9th CIRCUIT REPORTS.....

(111). JURISDICTION

THE COURT OF APPEALS OPINION (ORDER") IN THIS MATTER WAS FILED ON FEBRUARY 7th, 1991; A TIMELY PETITION FOR REHEARING HAS BEEN SUBMITTED TO THE 9th CIRCUIT, BUT DEMOS THE PETITIONER HAS NOT HEARD BACK FROM THE 9th CIRCUIT; THE U.S. SUPREME COURTS JURISDICTION IS INVOKED PURSUANT TO 28 U.S.C. 1254 (1);

(1V). CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED

I INVOKE THE 8th, 1st, 13th, 14th, 5th, & 6th AMMENDMENT OF THE U.S. CONSTITUTION;  
I ALSO INVOKE ARTICLE 111 & ARTICLE 1 OF THE U.S. CONSTITUTION;  
I ALSO INVOKE THE UNITED STATES CODE ANNOTATED;

THE RULES OF THE U.S. SUPREME COURT;  
THE ACTS OF CONGRESS;

(V). STATEMENT OF THE CASE

ON FEBRUARY 7th, 1991 THE UNITED STATES COURT OF APPEALS FOR THE 9th CIRCUIT, ISSUED AN ORDER IN CONFLICT WITH FELLOW CIRCUITS OF THE UNITED STATES, NAMELY THE "ORDER" OF THE 9th CIRCUIT BARS ME FROM EVER FILING "WRITS" INTO THE 9th CIRCUIT...

THE "ORDER" IS A DIRECT VIOLATION, AND AN ABROGATION OF CONGRESSIONAL INTENT.

THE "ORDER" CREATES A CONFLICT BETWEEN 28 U.S.C. 1915 (d);, & 28 U.S.C. 12 (B) (6);

THE 9th CIRCUIT FAILED TO APPLY, OR INVOKE THE RULE OF LENITY IN THIS MATTER, AS THE VOICE OF THE U.S. CONGRESS IS "UNCLEAR", AND RATHER VAGUE ON THE SUBJECT, AND WHENEVER

THERE IS QUESTIONABLE DOUBT AS TO THE INTENT OF CONGRESS, THE COURT "MUST" APPLY THE

LESS HARSH STANDARD, WHICH THE 9th CIRCUIT EVIDENTLY "WAS NOT" WON'T TO DO IN DEMOS' CASE.

IT IS TRUE, THAT I HAVE FILED MANY "UNSUPPORTABLE" WRITS IN THE PAST, BUT IT IS ALSO TRUE,

THAT I WAS NEVER AFFORDED THE OPPORTUNITY TO CORRECT THE DEFICIENCY, AS I AM NOT A LAWYER,

YET THE 9th CIRCUIT SEEKS TO UPHOLD, AND APPLY TO ME "PROFESSIONAL LEGAL STANDARDS"...

IT ALSO GOES WITHOUT SAYING THAT THE 9th CIRCUIT ORDER WAS "UNCONSTITUTIONALLY BROAD" IN

THAT IT PROHIBITS ME FROM FILING WRITS IN THE "FUTURE", AND NOT EVEN THE 9th CIRCUIT

CAN SAFELY PREDICT WHETHER OR NOT MY FUTURE WRITS WILL BE TERMED FRIVOLOUS, CHESSMAN VS. TEET

1 L. ED 2D 1253;

"CONGRESS INTENDED THE IN-FORMA-PAUPERIS STATUTE TO APPLY TO ALL, WHETHER RICH OR POOR;"

COPPEDGE VS. U.S. 8 L. ED 2D 21; HR REP. NO. 1079; 52d CONGRESS, 1st SESSION, (1892);



A: THE CONGRESSIONAL INTENT BEHIND 28 U.S.C. 1915 (d); & 28 U.S.C. 12 (b), (6) IS UNCONSTITUTIONALLY VAGUE, LANZETTA VS. NEW JERSEY, 83 L. ED 888; PURSUANT TO THE RULE OF LENITY, THE U.S. CONGRESS HAS NOT CLEARLY SPOKEN ON, OR ADDRESSED THE ISSUE ON ALL FOURS, COMPATIBLE WITH DECIBEL LEVEL INTENT, OR SPECIFIC INTENT, U.S. VS. RYAN, 455 F. 2D 728; & U.S. VS. HARRIS, 558 F. 2D 366; THE PETITIONER ALSO AVERS THAT ONLY CONGRESS, AND NOT THE COURTS CAN BAR ME FROM FILING WRITS, AND OR PETITONING THE GOVERNMENT FOR A REDRESS OF GRIEVANCES, COMMISSIONER VS. BROWN, 14 L. ED 2D 75; & U.S. VS. MAZE, 38 L. ED 2D 603;

B: THE LEGISLATURE CANNOT DELEGATE IT'S AUTHORITY TO THE U.S. SUPREME COURT, OR TO THE 9th CIRCUIT, UNLESS THE CLEAR INTENT OF CONGRESS IS UNANIMOUS, THEN THE COURTS CANNOT ON IT'S OWN MAKE "NEW LAW", THE ISSUE OF WHETHER THE 9th CIRCUIT CAN LAWFULLY BAR ME FROM FILING ANY MORE WRITS EVER AGAIN IN FORMA-PAUPERIS IS SUCH A POINT, FIELDS VS. CLARK, 143 U.S. 649;

C: PETITIONER DEMOS CONTENTS, THAT THE ORDER OF THE 9th CIRCUIT BARRING ME FROM FILING ANY WRITS, IS AN UNCONSTITUTIONAL EXPLOITATION OF MY "POVERTY", BECAUSE MY POVERTY IS AN ACT OF GOD, I DID NOT HAVE ANY CONTROL OVER THE FACT THAT I WAS BORN INTO THE WORLD AS A POOR MAN, U.S. VS. CARSON, 793 F. 2D 1141; UNIROYAL INC VS. HOOD, 588 F. 2D 454; SABINE TOWING AND TRANSP, CO VS. 666 F. 2D 561;

D: THE WRIT, AND THE RIGHT TO FILE A WRIT IS A CONSTITUTIONAL PRIVILEGE, NEW YORK TIMES VS. SULLIVAN, 11 L. ED 2D 686; IT IS TRUE THAT WE SHOULD NOT SO INTERPRET A STATUTE AS TO REACH AN ABSURD RESULT, BUT NEITHER SHOULD WE MAKE AN ABSURD INTERPRETATION TO REACH A DESIRED RESULT", COOPER'S MOBILE HOMES VS. SIMMONS, 94 WN. 2D 321; 28 U.S.C. 1915 (d) & 28 U.S.C. 12 (B) (6) ARE IN CONFLICT, AND CREATE A FATAL VARIANCE; WALKER VS. U.S. 116 F. 2D 458;

THE ACTION AND ORDER OF THE 9th CIRCUIT, IN DENYING ME THE RIGHT TO "EVER" FILE A WRIT INTO THEIR COURT, CREQUE VS. LUIS, 803 F. 2D 92; GENERAL MOTORS VS. U.S. 76 L. ED 971; "REPEALS BY IMPLICATION", AN ACT OF CONGRESS;

28 U.S.C. 1915 (d) FAVORS THE RICH, AND 28 U.S.C. 12 (B), (6) ~~WHILE~~ FAVORS THE POOR, WHICH SETS UP AN IRRECONCILABLE INCONSISTENCY, U.S. VS. CALIFORNIA, 80 L. ED 567;

E: A CONSTITUTIONAL POLICY OF THE 9th CIRCUIT MAY NOT BE APPLIED WITH AN UNCONSTITUTIONAL OBJECTIVE, GUTIERREZ VS. MUNICIPAL COURT OF THE SOUTHEAST JUDICIAL DISTRICT, 838 F. 2D 1031; HARRIS VS. FLEMING, 839 F. 2D 1232; THE U.S. SUPREME COURT IS ASKED TO ADOPT THE RULE OF LENITY IN THIS MATTER, BECAUSE THE INTENTIONS OF CONGRESS IS NOT CLEAR, ROWE VS. LOCKHART, ~~738~~ 736 F. 2D 457; (SEE IN RE: McDONALD, 103 L. ED 2D 158; \* NIETZKE VS. WILLIAMS, 104 L. ED 2D 338; & WILLIAMS VS. FAULKNER, 837 F. 2D 304; CIRCUIT COURT NOT AT LIBERTY TO WRONGLY EQUATE THE STANDARD FOR FAILURE TO STATE A CLAIM UNDER RULE 12 (B) (6) WITH THE STANDARD FOR FRIVILOUSNESS UNDER 1915 (d);

F: THE STATUTES ON FORMA PAUPERIS "CONFLICT", URBAIN VS. KNAPP BROTHERS, 217 F. 2D 810; & POWELTON CIVIL HOME OWNERS VS. HUD, 284 F. SUPP. 809; CONFLICT WITH, FRANKLIN VS. MURPHY, 745 F. 2D 1221; & ENGLE VS. ISSAC, 456 U.S. 107; & HOLT VS. MORRIS, 84 WN. 2D 841; (THE LAW CANNOT READ TWO DIFFERENT WAYS)...

G: CONGRESS, NOR THE CONGRESSIONAL REPORTS HAVE PROPERLY DEFINED THE PROPER CONTOURS OF 28 U.S.C. 1915 (d), NEITZKE VS. WILLIAMS, 104 L. ED 2D 338; THUS, THE RULE OF LENITY IS IN ORDER HERE.....

(VII). CONCLUSION

THE LAW HAS SPOKEN, AND CONGRESS IS SILENT ON SOME VERY IMPORTANT ISSUES THAT ARE INCULCATED IN THIS "WRIT OF HABEAS CORPUS"...

MAY IT SO PLEASE THE COURT TO NOTE THAT THE ORDER OF THE 9th CIRCUIT COURT OF APPEALS INCORPORATED BOTH STATE & FEDERAL COURT ACTION, THE ORDER OF THE 9th CIRCUIT IS WIDE IN IT'S TOTAL REACH, SCOPE, AND LATITUDE, AS IT CUTS A LARGE PATH OF JURISDICTIONAL TERRORITY, LEAVING NOTHING UNTOUCHED IN IT'S SWAY....

I BRING THIS WRIT BEFORE THE COURT, BECAUSE THE 9th CIRCUIT DID NOT DIFFERENTIATE WHICH WRIT I WOULD NOT BE ALLOWED TO "EVER" FILE IN THEIR COURT, AND SINCE THE WRIT OF HABEAS CORPUS IS MENTIONED IN THE U.S. CONSTITUTION AS THE ONLY WRIT THAT CANNOT BE SUSPENDED SAVE BY CONGRESS, AND THE PRESIDENT IN A "NATIONAL EMERGENCY", I THEREFORE, TAKE THE ORDER OF THE 9th CIRCUIT TO INCORPORATE THE WRIT OF HABEAS CORPUS AS WELL, AND IF THAT BE TRUE, AS THE DAY FOLLOWS THE NIGHT, THEN I HAVE NO CHOICE BUT TO CRY "FOUL", AND PROTEST THE FACT THAT THE LOWER 9th CIRCUIT HAS "EXCEEDED" IT'S JURISDICTION....

THERE CAN BE NO DOUBT THAT THE CONFLICT BETWEEN 28 U.S.C. 1915 (d); & 12 (B) (6) MANIFESTS EVIDENT PARTIALITY, FLORASYNTH INC., VS. PICKHOLZ, 750 F. 2D 171;  
MAY IT SO PLEASE THE COURT TO TAKE SUPERVISORY OBSERVATION, AND CONTROL OF THIS MATTER...

I AWAIT THE VERDICT OF "JUSTICE", AND DUE PROCESS IN THIS MATTER...

NEED I SAY MORE? WHEREFORE PETITIONER SAYETH NAUGHT....

1st John R. Demos  
JOHN ROBERT DEMOS JR

(VI).

IN THE UNITED STATES SUPREME COURT OF  
WASHINGTON, D.C.

**AFFIDAVIT**  
OF  
SERVICE BY MAILING

I, the undersigned, being first duly sworn, upon oath, do hereby depose and say;

That I am a citizen of the UNITED STATES, and competent to be a witness therein;

That on the 19th day of FEBRUARY 1991, I deposited in the United States Mail, postage prepaid, addressed as follows;

THE HON. KENNETH EIKENBERRY (STATE ATTORNEY GENERAL)  
THE HIGHWAY LICENSE BUILDING  
12th & WASHINGTON STREET  
MAIL STOP: FZ-11  
OLYMPIA, WASHINGTON. (98504)

&

THE HON. KENNETH STARR (U.S. SOLICITOR GENERAL)  
THE UNITED STATES DEPARTMENT OF JUSTICE  
10th & CONSTITUTION AVENUE  
WASHINGTON, D.C. (20530)

Copies of the following documents;

(1) WRIT OF CERTIORARI & REQUEST TO CERTIFY THE LOWER COURT

RECORDS;

(1) WRIT OF HABEAS CORPUS;

State of Washington )  
County of Snohomish ) ss

Sworn and Subscribed to, this 17 day of Feb 1991



Judy A. Wick  
Notary Public, in and for the  
State of Washington, residing  
at Marysville

**SUPREME COURT OF THE UNITED STATES**

IN RE JOHN ROBERT DEMOS, JR.

90-7225

ON PETITION FOR WRIT OF HABEAS CORPUS

JOHN ROBERT DEMOS, JR.

90-7226

*v.*

UNITED STATES DISTRICT COURT FOR THE EAST-  
ERN DISTRICT OF WASHINGTON ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

IN RE JOHN ROBERT DEMOS, JR.

90-7296

ON PETITION FOR WRIT OF MANDAMUS

Nos. 90-7225, 90-7226 AND 90-7296. Decided April 29, 1991

**PER CURIAM.**

Petitioner has filed a petition for a writ of certiorari, No. 90-7226, a petition for a writ of habeas corpus, No. 90-7225, and a petition for a writ of mandamus, No. 90-7296, all seeking relief from a single order of a lower court, which in turn denied petitioner leave to proceed *in forma pauperis* and barred petitioner from making further *in forma pauperis* filings seeking certain extraordinary writs. We deny the petition for a writ of certiorari in No. 90-7226.

Petitioner has made 32 *in forma pauperis* filings in this Court since the beginning of the October 1988 Term, many of which challenge sanctions imposed by lower courts in response to petitioner's frivolous filings. Petitioner's method of seeking relief here—filing three petitions for relief from a single order of a lower court—could only be calculated to disrupt the orderly consideration of cases. Petitioner has abused the system, and we find it appropriate to deny leave to proceed *in forma pauperis* to petitioner in these two peti-

tions for extraordinary relief, Nos. 90-7225 and 90-7296, and in all future petitions for extraordinary relief. See *In re Sindram*, — U. S. — (No. 90-6051, January 7, 1991); *In re McDonald*, 489 U. S. 180 (1989).

If petitioner wishes to have one or both of these petitions considered on its merits, he must pay the docketing fee required by Rule 38(a) and submit a petition in compliance with Rule 33 of the Rules of this Court before May 20, 1991. The Clerk is directed not to accept any further petitions from petitioner for extraordinary writs unless he pays the docketing fee required by Rule 38(a) and submits his petition in compliance with Rule 33. Petitioner remains free under the present order to file *in forma pauperis* requests for relief other than an extraordinary writ, if he qualifies under this Court's Rule 39 and does not similarly abuse that privilege.

*It is so ordered.*



## SUPREME COURT OF THE UNITED STATES

IN RE JOHN ROBERT DEMOS, JR.

90-7225

ON PETITION FOR WRIT OF HABEAS CORPUS

IN RE JOHN ROBERT DEMOS, JR.

90-7296

ON PETITION FOR WRIT OF MANDAMUS

Nos. 90-7225 AND 90-7296. Decided April 29, 1991

JUSTICE MARSHALL, with whom JUSTICE BLACKMUN and JUSTICE STEVENS join, dissenting.

Today, this Court blacklists another indigent *pro se* litigant. The order issued today, which bars future *in forma pauperis* filings for extraordinary writs by John Demos and hints that restrictions on other filings by Demos might be forthcoming, marks the third such proscription the Court has initiated in the last two years. See *In re Sindram*, — U. S. — (1991); *In re McDonald*, 489 U. S. 180 (1989). Yet, as in *Sindram* and *McDonald*, the Court fails to identify any statute or rule giving it the extraordinary authority to impose a permanent ban on an indigent litigant's *in forma pauperis* filings. Nor does the Court satisfactorily explain why it has singled out an indigent litigant for having lodged frivolous filings when paying litigants often are guilty of the same sin.

I continue to oppose this Court's unseemly practice of banning *in forma pauperis* filings by indigent litigants. See *In re Sindram*, *supra*, at — (1991) (MARSHALL, J., dissenting); *In re McDonald*, *supra*, at 185 (1989) (Brennan, J. dissenting, joined by MARSHALL, BLACKMUN, and STEVENS, JJ.). As I have argued, the Court's assessment of the disruption that an overly energetic litigant like Demos poses to "the orderly consideration of cases," *ante*, at 1, is greatly exaggerated. See *In re Sindram*, *supra*, at — (dissenting



opinion). The Court is sorely mistaken if it believes that the solution to the problem of a crowded docket is to crack down on a litigant like Demos.

Two years ago, Justice Brennan sagely warned that in "needless[ly] depart[ing] from its generous tradition" of leaving its doors open to all classes of litigants, the Court "sets sail on a journey whose landing point is uncertain." *In re McDonald, supra*, at 188 (dissenting opinion). The journey's ominous destination is becoming apparent. The Court appears resolved to close its doors to increasing numbers of indigent litigants—and for increasingly less justifiable reasons.\* I fear that the Court's action today portends even more draconian restrictions on the access of indigent litigants to this Court.

In closing its doors today to another indigent litigant, the Court moves ever closer to the day when it leaves an indigent litigant with a meritorious claim out in the cold. And with each barrier that it places in the way of indigent litigants, and with each instance in which it castigates such litigants for having "abused the system," *ante*, at 1, the Court can only reinforce in the hearts and minds of our society's less fortu-

---

\*Indeed, the ban the Court imposes on Demos' *in forma pauperis* filings for extraordinary writs seems particularly unjustifiable. The Court makes much of the fact that Demos has made 32 *in forma pauperis* filings since 1988. Yet, according to the records of the Clerk of the Court, only four of those filings have been for extraordinary writs, the sole subject of the ban announced today. It cannot be seriously contended that these four filings in the last three years have so disrupted the orderly administration of this Court's business as to require barring any such future filings. More likely, the Court's ban on Demos' *in forma pauperis* requests for extraordinary writs is but a poorly disguised penalty for his more numerous petitions for certiorari. See also *In re Sindram*, — U. S. —, — (1991) (BLACKMUN, J., dissenting, joined by MARSHALL, J.) (noting that Court's ban upon petitioner's *in forma pauperis* filings for extraordinary relief "appears to be nothing more than an alternative for punishing [petitioner] for the frequency with which he has filed petitions for certiorari and petitions for rehearing").

nate members the unsettling message that their pleas are not welcome here.

I dissent.